IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 2189 of 1996

Between:

G.Sambaiah S/o. Gopalam
Jagityal Depot Karimnagar Dt.

..... PETITIONER

AND

1 A.P.S.R.T.C., rep.by its Chairman & M.D,
Hyderabad
2 Chief Medical Office,A.P.S.R.T.C Hospital
Tarnaka Hyderabad
3 Regional Manager, APSRTC., Karimnagar Region
Karimnagar
4 Asst.Medical Officer APSRTC Dispensary
Karimnagar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, particularly in the nature of Mandamus declaring the action of the respondents in with holding the medical reimbursement to the petitioner as arbitrary, illegal, malafide, unconstitutional and inhuman and opposed to social justice and issue a consequential direction to forthwith reimburse Rs.27000/- to the petitioner.

Counsel for the Petitioner: MR.A.GIRIDHAR RAO

Counsel for the Respondents: (SC FOR A.P.S.R.T.C.)

The Court at the admission stage made the following :

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 2189 of 1996

ORDER:

A Traffic Inspector-II, in A.P.S.R.T.C., has filed the writ petition aggrieved by the withholding of the medical reimbursement facility to him and seeking a direction to the respondents to reimburse an amount of Rs.27,000/- for his spinal operation.

Petitioner entered the service of the A.P.S.R.T.C. as conductor in 1962 and eventually, he was promoted as Traffic Inspector-II in 1989 after an intermediary position as a Controller in 1974. While working as Traffic Inspector-II, towards the end of 1993, a bus coming from Bombay to Jagityal, is said to have met with an accident at Latoor, wherein the driver was injured. The injured driver was initially admitted in a Hospital at Latoor, and later, shifted to A.P.S.R.T.C. Hospital at Tarnaka, Hyderbad, and on advice of the said hospital, he was shifted to Gandhi Hospital, Secunderabad. The petitioner was asked to accompany the said employee/patient to the Gandhi Hospital, and allegedly on account of medical negligence at Gandhi Hospital, the driver succumbed some time during December, 1993 and early January, 1994.

The petitioner alleges to have developed severe pain in the neck, which was radiating through the extremities of the body and also to the lower limbs. After initial examination at Jagtiyal, the petitioner had further diagnosis at Medinova and C.D.R. Hospitals in Hyderabad, and on the advice of a senior surgeon in the C.D.R. Hospital, and other tests, he was advised to undergo treatment at Jaslok Hospital, Bombay. One Doctor P. Palem advised him to meet Dr. Vengsarkar, Neuro Surgeon. As there were no beds available at Jaslok Hospital, and on the advise of the surgeon, the petitioner joined at Sir Hurkisondas Nurrotumdas Hospital and Research Centre, Bombay in January, 1995. The petitioner underwent the Cervical Spinal Surgery at Sir Hurkisondas Nurrotumdas Hospital and Research Center and was discharged on 23.01.1995. He joined duty on 07.04.1995. He is working ever since as Traffic Inspector-II at Jagityal Depot. On 20.04.1995 after returning to duty, he made an application to the Depot Manager, Jagtiyal for medical reimbursement in an amount of Rs.27,000/-, which was forwarded to the Assistant Medical Officer, A.P.S.R.T.C. Hospital, Karimnagar. The petitioner asserts that the Assistant Medical Officer, A.P.S.R.T.C. Hospital, Karimnagar, recommended reimbursement of the

amount to the petitioner and forwarded his representation to the Depot Manager, who in turn, forwarded the same to the Regional Manager, A.P.S.R.T.C., Karimnagar Region. The Regional Manager, Karimnagar, also recommended for sanction of the medical bill and forwarded the same to the Chief Medical Officer, A.P.S.R.T.C. Hospital, Tarnaka. The Chief Medical officer, Tarnaka made an endorsement dated 18.07.1995, that there was no necessity for the petitioner to have gone to Bombay, as the same treatment is available at the A.P.S.R.T.C. Hospital, Tarnaka or Osmania General and Gandhi Hospital. On the basis of this endorsement, medical reimbursement was denied to the petitioner. Petitioner assails this denial as violative of Articles 14, 16 and 21 of the Constitution and that as the Tarnaka Hospital was not adequately equipped and on the basis of expert medical advice, he had proceeded to Bombay to undergo a critical spinal procedure under a renowned surgeon.

The writ petition was filed on 29.01.1996. No counter has been filed. None of the allegations of the petitioner with regard to the lack of adequate and commensurate facilities at A.P.S.R.T.C. Hospital, Tarnaka or the legitimate circumstances in which the petitioner proceeded to Bombay for the surgical procedure are contested or denied. No factual or legal plea is addressed to this Court to sustain any defence to the petitioner's assertions or the reliefs claim there under. In the absence of any such denial, the petitioner's assertions, allegations, and claims must be considered as established and genuine. Consequently, he is entitled to relief.

The writ petition is accordingly allowed. The respondents are directed to reimburse an amount of Rs.27,000/- for the medical expenses incurred by him, with utmost expedition, and in any event, within a period of three weeks from the date of receipt of a copy of this order. In the circumstances of the case, there shall be no order as to costs.

23rd September,2004

bud/pvsn

Copy to :

1. The Chiarman and Managing Director, A.P.S.R.T.C., Hyderabad.
2. The Chief Medical officer, A.P.S.R.T.C. Hospital, Tarnaka, Hyderabad.
3. The Regional Manager, A.P.S.R.t.C., Karimnagar Region, Karimnagar.
4. The Assistant Medical officer, A.P.S.R.T.C., Dispensary, Karimnagar.

5. Two C.D.Copies.